IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

Tr.P(Crl.).No. 79 of 2007()

SC.488/2006 of ADDITIONAL SESSIONS COURT FAST TRACK NO.1,MANJERI

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PETITIONER/ACCUSED:

M.T.JOSE, AGED 47 YEARS,
S/O.THOMAS, MYLIL HOUSE, MARUTHA P.O.,
NILAMBUR TALUK.

BY ADV. SRI.P.SAMSUDIN

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
EXCISE INSPECTOR, PARAPPANANGADI RANGE,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Tr.P.(Crl.).No.79 of 2007

Dated this the 15th day of October 2007

O R D E R

This is an application for transfer of a case pending before the Additional Sessions Court (Fast Track No.I), Manjeri. The petitioner faces allegations under the Kerala Abkari Act. Admittedly, the trial has commenced. Some witnesses has been examined. It stands posted for examination of the remaining witnesses to 16/10/2007, tomorrow. It is, at this stage, that the petitioner has come before this court with the prayer for transfer.

2. What is the ground for transfer? There is no allegation that the Presiding Officer has any personal interest. The short contention urged is that in the course of recording of evidence, several favourable answers to the accused persons given by the witnesses were not recorded by the learned Judge. It is further alleged that the learned Sessions Judge threatened the counsel in the course of trial that he will teach him a lesson.

It is on the basis of these circumstances that the petitioner allegedly entertains an apprehension that he may not get justice at the hands of the learned Judge who is now conducting the trial.

3. The trial has been completed in part. Satisfactory and compelling reasons must be shown to exist to justify the prayer for transfer at this stage. What are the answers given by the witnesses which have not been recorded by the learned Judge? No specific details are available. It is significant that the petitioner or his counsel has not filed any affidavit or statement about the alleged indiscretions committed by the learned Judge.

4. I must take note of the fact that the trial has already been completed in part and the same stands posted to continue the trial tomorrow, that is 16/10/2007. I am, in these circumstances, satisfied that this transfer petition does not deserve to be entertained favourably.

5. This transfer petition is accordingly dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007